

APPEAL NO. 041817
FILED SEPTEMBER 14, 2004

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on June 17, 2004. The hearing officer determined that the appellant's (claimant) _____, compensable injury does not extend to and include injuries at L2-3 and L3-4 of the lumbar spine. The claimant appeals on sufficiency of the evidence grounds. The appeal file does not contain a response from the respondent (carrier).

DECISION

Affirmed.

We note that on appeal, the claimant appears to be asserting that there were several procedural irregularities during the hearing, including an apparent complaint regarding the assisting ombudsman's competence. We have reviewed the entire record in this matter and conclude that no error was committed. The claimant was fully involved during the hearing, including asking questions of a witness. The claimant voiced no objections related to the matters he now complains of at the hearing, as such any objections he may have had have been waived. We find no apparent flaw or lack of competence on the part of the assisting ombudsman.

The hearing officer did not err in making the complained-of determination. The determination involved a question of fact for the hearing officer to resolve. The hearing officer is the sole judge of the weight and credibility of the evidence (Section 410.165(a)) and, as the trier of fact, resolves the conflicts and inconsistencies in the evidence, including the medical evidence (Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ)). There was conflicting evidence presented on the disputed issue. The hearing officer considered the evidence but was not persuaded that the claimant's _____, compensable injury extends to and includes the problems that the claimant is experiencing at L2-3 and L3-4. In view of the evidence presented, we cannot conclude that the hearing officer's extent-of-injury determination is so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

The decision and order of the hearing officer are affirmed.

The true corporate name of the insurance carrier is **THE INSURANCE COMPANY OF THE STATE OF PENNSYLVANIA** and the name and address of its registered agent for service of process is

**CORPORATION SERVICE COMPANY
800 BRAZOS, SUITE 750, COMMODORE 1
AUSTIN, TEXAS 78701.**

Daniel R. Barry
Appeals Judge

CONCUR:

Robert W. Potts
Appeals Judge

Margaret L. Turner
Appeals Judge